

[9-MONTH PROPOSAL]

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/19/10

MARVEL WORLDWIDE, INC.,
MARVEL CHARACTERS, INC. and
MVL RIGHTS, LLC,

Plaintiffs,

Civil Action No. 10-141 (CM) (KNF)

-against-

LISA R. KIRBY, BARBARA J. KIRBY,
NEAL L. KIRBY and SUSAN N. KIRBY,

Defendants.

~~Proposed~~ CIVIL CASE MANAGEMENT PLAN

1. The parties disagree as to whether this case is to be tried to a jury. Plaintiffs believe a jury trial is not required. Defendants believe a jury trial is required.
2. Discovery pursuant to Fed. R. Civ. Proc. 26(a) shall be exchanged by April 28, 2010.
3. No additional parties may be joined after July 26, 2010.
4. No pleading may be amended after July 26, 2010.
5. All discovery, including expert discovery, must be completed on or before January 14, 2011.

a. ~~Initial document requests shall be served no later than April 23, 2010.~~

b. The deposition of Stan Lee shall be taken no later than ~~forty five (45)~~ ³⁰ days from the date of this Order, ^(for the purpose of preserving testimony) defendants may cross-examine him and/or may depose Mr. Lee at a later date, but if they do, they run the risk that

c. Expert disclosures conforming with Rule 26 must be made no later than the following dates: Plaintiffs' expert report(s) by October 4, 2010; Defendants' expert report(s) by November 4, 2010.

He will never be able to cross-examine and understand that the preserved testimony will be admissible at trial. Mr. Lee will not be questioned twice about the same matters.

- The court greatly doubts that there is any relevant e-discovery; you must come back to Judge McMahon if any e-discovery is believed necessary.*
6. ~~The parties agree that no electronic discovery orders are necessary to this case, which involves events that took place in the 1950s and 1960s.~~
 7. Discovery disputes in this case will be resolved by Magistrate Judge Fox in accordance with the Order of Reference dated March 15, 2010. Discovery disputes do not result in any extension of the discovery deadline or trial-ready date, and Judge McMahon must approve any extension of the discovery deadline.
 8. A joint pre-trial order in the form prescribed in Judge McMahon's individual rules, together with all other pre-trial submissions required by those rules (not including *in limine* motions), shall be submitted on or before February 28, 2011. Following submission of the joint pre-trial order, counsel will be notified of the date of the final pre-trial conference. *In limine* motions must be filed within five days of receiving notice of the final pre-trial conference; responses to *in limine* motions are due five days after the motions are made. Cases may be called for trial at any time following the final pre-trial conference.
 9. No motion for summary judgment may be served after the date the pre-trial order is due. Dispositive motions are to be served by February 11, 2011. Answering papers are to be served by March 11, 2011. Reply papers are to be served by March 25, 2011. The filing of a motion for summary judgment does not relieve the parties of the obligation *to file the pre-trial order and other pre-trial submissions on the assigned date.*
 10. The parties may at any time consent to have this case tried before the assigned Magistrate Judge pursuant to 28 U.S.C. Section 636(c).
 11. This scheduling order may be altered or amended only on a showing of good cause that is not foreseeable at the time this order is entered. *Counsel should not assume that extensions will be granted as a matter of routine.*

Dated: New York, New York
April __, 2010

TOBEROFF & ASSOCIATES, P.C.

By _____
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Attorneys for Defendants

Dated: New York, New York
April __, 2010

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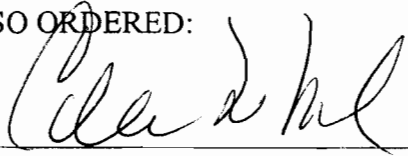
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SO ORDERED:



Hon. Colleen McMahon
United States District Judge

4/16/2010